

ESTTA Tracking number: **ESTTA602487**

Filing date: **05/05/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Duke University
Granted to Date of previous extension	05/04/2014
Address	Office of Counsel, 310 Blackwell St, 4th Floor Durham, NC 27701 UNITED STATES
Attorney information	Susan Freya Olive Olive & Olive, P.A. 500 Memorial St Durham, NC 27701 UNITED STATES emailboxTTAB@oliveandolive.com

### Applicant Information

Application No	85958724	Publication date	11/05/2013
Opposition Filing Date	05/05/2014	Opposition Period Ends	05/04/2014
Applicant	Daredevil Brewing Co 7205 East Short Blue Road Shelbyville, IN 46176 UNITED STATES		

### Goods/Services Affected by Opposition

Class 032. First Use: 2013/02/01 First Use In Commerce: 2013/02/01  
All goods and services in the class are opposed, namely: Beer, ale, lager, stout, porter, shandy

### Grounds for Opposition


False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)

### Marks Cited by Opposer as Basis for Opposition


U.S. Registration No.	1411286	Application Date	03/14/1986
Registration Date	09/30/1986	Foreign Priority Date	NONE
Word Mark	BLUE DEVILS		
Design Mark			


Description of Mark	NONE
Goods/Services	Class 016. First use: First Use: 1949/00/00 First Use In Commerce: 1949/00/00 PAPER NAPKINS, DECALS, PAPER PENNANTS, BULLETIN BOARDS, PENCILS, PENS, AND WRITING PAPER Class 021. First use: First Use: 1949/00/00 First Use In Commerce: 1949/00/00 SERVING TRAYS, TRASH CANS, MUGS, DRINKING GLASSES, AND CUPS Class 028. First use: First Use: 1952/00/00 First Use In Commerce: 1952/00/00 SPORT BALLS, CHRISTMAS TREE ORNAMENTS, AND STUFFED TOY ANIMALS

U.S. Registration No.	1411429	Application Date	03/13/1986
Registration Date	09/30/1986	Foreign Priority Date	NONE
Word Mark	BLUE DEVILS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1949/00/00 First Use In Commerce: 1949/00/00 MEN'S, WOMEN'S AND CHILDREN'S CLOTHING,NAMELY SHIRTS, PANTS, JACKETS, SOCKS, BIBS AND HEADWEAR		


U.S. Registration No.	1703267	Application Date	09/30/1991
Registration Date	07/28/1992	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 1982/09/00 First Use In Commerce: 1982/09/00 paper identification tags and decals Class 020. First use: First Use: 1982/09/00 First Use In Commerce: 1982/09/00 plaques and chairs Class 025. First use: First Use: 1982/09/00 First Use In Commerce: 1982/09/00 pants, shirts and jackets		

U.S. Registration No.	1703433	Application Date	09/30/1991
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Registration Date	07/28/1992	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1982/09/00 First Use In Commerce: 1982/09/00 pants and underwear		


U.S. Registration No.	1737968	Application Date	09/30/1991
Registration Date	12/08/1992	Foreign Priority Date	NONE
Word Mark	D		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 006. First use: First Use: 1982/09/00 First Use In Commerce: 1982/09/00 metal license plates and metal key chains</p> <p>Class 011. First use: First Use: 1982/09/00 First Use In Commerce: 1982/09/00 lamps</p> <p>Class 012. First use: First Use: 1988/10/00 First Use In Commerce: 1988/10/00 automobile windshield sunshades</p> <p>Class 014. First use: First Use: 1982/09/00 First Use In Commerce: 1982/09/00 watches and women's jewelry</p> <p>Class 016. First use: First Use: 1982/09/00 First Use In Commerce: 1982/09/00 decals, [ paper flags,] note pads, and writing paper</p> <p>Class 018. First use: First Use: 1982/09/00 First Use In Commerce: 1982/09/00 [trunks for traveling and] gym bags</p> <p>Class 020. First use: First Use: 1982/09/00 First Use In Commerce: 1982/09/00</p>		

	<p>chairs, [ plastic flags, ] and jewelry cases not of precious metal</p> <p>Class 021. First use: First Use: 1982/09/00 First Use In Commerce: 1982/09/00 cups, wastepaper baskets, and insulated can holders</p> <p>Class 024. First use: First Use: 1982/09/00 First Use In Commerce: 1982/09/00 cloth flags</p> <p>Class 025. First use: First Use: 1982/09/00 First Use In Commerce: 1982/09/00 hats, socks, pants, shirts, sweatshirts, and sweaters</p> <p>Class 027. First use: First Use: 1982/09/00 First Use In Commerce: 1982/09/00 floor mats for household use</p> <p>Class 028. First use: First Use: 1982/09/00 First Use In Commerce: 1982/09/00 sports balls and basketball backboards</p>
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U.S. Registration No.	1742734	Application Date	10/01/1991
Registration Date	12/29/1992	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 006. First use: First Use: 1982/09/00 First Use In Commerce: 1982/09/00 metal license plates</p> <p>Class 009. First use: First Use: 1982/09/00 First Use In Commerce: 1982/09/00 thermometers</p> <p>Class 014. First use: First Use: 1982/09/00 First Use In Commerce: 1982/09/00 women's jewelry</p> <p>Class 016. First use: First Use: 1982/09/00 First Use In Commerce: 1982/09/00 decals and stationery</p> <p>Class 020. First use: First Use: 1982/09/00 First Use In Commerce: 1982/09/00 plaques, chairs, plastic bottle caps and plastic novelty license plates</p> <p>Class 021. First use: First Use: 1982/09/00 First Use In Commerce: 1982/09/00 drinking glasses, cups, pitchers, serving trays not of precious metal, waste paper baskets and insulated can holders</p> <p>Class 025. First use: First Use: 1982/09/00 First Use In Commerce: 1982/09/00 hats, gowns, shirts, and jackets</p> <p>Class 026. First use: First Use: 1982/09/00 First Use In Commerce: 1982/09/00 [ needlepoint kits comprising floss, fabric, needles, photographs of embroidered design, needlepoint pattern and instructions, or selected ones of such items ]</p> <p>Class 028. First use: First Use: 1982/09/00 First Use In Commerce: 1982/09/00</p>		


	sport balls, throwing discs, golf club covers and Christmas stockings		
U.S. Registration No.	2088779	Application Date	02/14/1996
Registration Date	08/19/1997	Foreign Priority Date	NONE
Word Mark	DEVILS' DUPLICATES		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 035. First use: First Use: 1995/10/09 First Use In Commerce: 1995/11/07 document reproduction services</p> <p>Class 042. First use: First Use: 1995/10/09 First Use In Commerce: 1995/11/07 document design to the order of others;document production, namely, printing documents for others; providing computer and desktop publishing facilities for use by others; retail store services featuring paper, film, and computer and print-supplies</p>		
U.S. Registration No.	2537692	Application Date	01/07/2000
Registration Date	02/12/2002	Foreign Priority Date	NONE
Word Mark	DEVILNET		
Design Mark	<p style="text-align: center;"><b>DEVILNET</b></p>		
Description of Mark	NONE		
Goods/Services	<p>Class 038. First use: First Use: 1997/12/00 First Use In Commerce: 1997/12/00 [ Providing on-line chat rooms for transmission of messages among computer users concerning university-related events and activities, university sports, entertainment, community events and activities, news, weather, medicine, science, liberal arts, history, technology ]</p> <p>Class 041. First use: First Use: 1997/12/00 First Use In Commerce: 1997/12/00 Providing an on-line computer database in the field of university-related events and activities, university sports, entertainment, community events and activities, news, weather, medicine, science, liberal arts, history, technology</p>		
U.S. Registration No.	2820854	Application Date	11/07/2002
Registration Date	03/09/2004	Foreign Priority Date	NONE
Word Mark	D		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 1996/05/08 First Use In Commerce: 1996/05/08 decorative magnets Class 014. First use: First Use: 1988/08/15 First Use In Commerce: 1988/08/15 earrings Class 016. First use: First Use: 1988/08/15 First Use In Commerce: 1988/08/15 stationery Class 021. First use: First Use: 1988/08/15 First Use In Commerce: 1988/08/15 beverage glasses and portable coolers Class 025. First use: First Use: 1988/08/15 First Use In Commerce: 1988/08/15 shirts, sweatshirts and underwear

U.S. Registration No.	3878213	Application Date	08/03/2006
Registration Date	11/16/2010	Foreign Priority Date	NONE
Word Mark	DUKE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 2010/02/01 First Use In Commerce: 2010/02/01 Decals, note pads, note cards, writing paper, and binders		

U.S. Registration No.	3925905	Application Date	02/29/2008
Registration Date	03/01/2011	Foreign Priority Date	NONE
Word Mark	D		

Design Mark	
Description of Mark	The mark consists of a stylized capital letter "D" superimposed over a three-pronged pitchfork. The letter "D" contains a barbed devil tail that encircles the pitchfork's staff.
Goods/Services	<p>Class 006. First use: First Use: 2010/11/18 First Use In Commerce: 2010/11/18 Key holders made primarily of metal</p> <p>Class 008. First use: First Use: 2010/11/18 First Use In Commerce: 2010/11/18 Pocket knives</p> <p>Class 009. First use: First Use: 2010/11/18 First Use In Commerce: 2010/11/18 Decorative magnets</p> <p>Class 014. First use: First Use: 2010/11/18 First Use In Commerce: 2010/11/18 Jewelry; wrist watches</p> <p>Class 016. First use: First Use: 2010/11/18 First Use In Commerce: 2010/11/18 desktop business card holders, decals, stickers</p> <p>Class 021. First use: First Use: 2010/11/18 First Use In Commerce: 2010/11/18 mugs, thermal insulated containers for food or beverage</p> <p>Class 024. First use: First Use: 2010/11/18 First Use In Commerce: 2010/11/18 Cloth pennants</p> <p>Class 025. First use: First Use: 2010/11/18 First Use In Commerce: 2010/11/18 Clothing, namely, shorts, headwear, tops, shirts</p> <p>Class 028. First use: First Use: 2010/11/18 First Use In Commerce: 2010/11/18 Balloons</p>

U.S. Registration No.	4172132	Application Date	08/03/2006
Registration Date	07/10/2012	Foreign Priority Date	NONE
Word Mark	DUKE		
Design Mark			
Description of Mark	The mark consists of the stylized wording "DUKE". A design of the side of a devil's head appears between the letters "U" and "K" in "DUKE".		

Goods/Services	Class 025. First use: First Use: 2009/10/00 First Use In Commerce: 2009/10/00 Clothing for men and women, namely, tops and sweatshirts
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U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	BLUE DEVILS		
Goods/Services	A wide range of products for men, women and children, including products for use in connection with athletic events and performance and further including but not limited to clothing including casual and sports clothing, headwear, outerwear, footwear, knitwear, hats, tops, t- shirts, polo shirts, bottoms, pants, sweatshirts, sweatpants, sports jerseys, uniforms, foul weather gear, jackets, athletic apparel, protective eyewear, beachwear, infant wear, coats, cover-ups, lingerie, loungewear, neckwear, skiwear, swimwear, sleepwear, suspenders, hair wear, undergarments; personal accessories including but not limited to sports and travel bags, sunglasses, jewelry and watches, belts, wallets, hair accessories, stuffed and plush toys; a wide variety of items for children and infants, including clothing, sleepwear, toys, bibs and other feeding related items, and accessories; electronics and computer accessories, data storage devices, portable computer sleeves, and mouse pads; holiday ornaments and accessories; dolls, toys, action figures, board games and video games; blankets, bed & bath items; personal care, skin care, grooming, and cosmetic items including toothbrushes and personal care packs comprising a variety of items; containers to hold personal care, skin care, grooming, and cosmetic items; time keeping devices; pet accessories, including apparel, restraint devices, and food and treat related items; beverage & barware; kitchenware, kitchen and cooking accessories; pennants, banners & flags; automobile and other vehicular accessories including but not limited to license plates, bumper stickers, decals, flags, fins, and mirror adornments; bicycles, bicycles accessories including bicycle clothing, gear, and bags; kitchenware; desk & office accessories; furniture; lighting; personal accessories; writing instruments and paper products including, but not limited to, memo pads, books, napkins; photographs; artworks; collectibles; sports equipment, accessories & team memorabilia including helmets and ball markers; decor items; pre-recorded music; cell phone ringtones; streaming live musical performances; magazines, periodicals and other publications directed to a variety of subjects of interest to or related to the University, its programs, research, students, professors, or alumni		


U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	BLUE DEVILS		
Goods/Services	A wide range of services for men, women and children, including but not limited to educational services, namely providing courses of instruction for men, women and children, including classes, seminars, workshops, conferences, tutoring and training in virtually all fields of learning at the pre-university, university, graduate and post-graduate levels, including but not limited to liberal arts, science and medicine, business, law, music, art, religion, sports, health and wellness, and auxiliary skills necessary to success in a career; educational and scientific research; religious instruction, teaching, counseling and services including divinity school services and church services; photography services; services in the fields of entertainment and sports,		



	<p>such as sports team and club services and performances in, among others, the fields of badminton, baseball, basketball, bicycles, crew, cross country, cycling, dancing, diving, endurance events, equestrian, fencing, field hockey, football, golf, ice hockey, ice skating, lacrosse, martial arts, motor sports including automobile racing, music, racing, racquetball, rowing, rugby, sailing, ski, soccer, softball, snowboard, swimming, table tennis, tennis, track and field, ultimate Frisbee, volleyball, water polo, and wrestling, as well as others; sports medicine programs; sports training programs; including intermural sports teams, club teams intercollegiate sports teams, and NCAA sports programs; sports training camps for its own students and athletes and others; sports training programs, including providing training for youthful athletes as well as older athletes; sports medicine programs; and athlete injury rehabilitation programs; sports, athletic and health training and education; publishing services; providing a web site featuring sports information; providing news and information in the field of sports; programming in the fields of sports, news, current events, popular culture, stories of general interest, and educational programming; creating, maintaining and merchandising a wide variety of recorded and streamed content; entertainment and educational services in the nature of museums; entertainment and educational services in the nature of musical and theatrical performances; fund raising; provision of food and beverages and restaurant services; medical and wellness services; education in the fields of health and wellness aimed at the general public; spa services; medical and nutritional research and programs, including research on dietary supplements, and other "non-traditional" medical treatments and research; psychological services including but not limited to counseling and treatment for victims of physical, emotional and sexual abuse; mental and physical health services for men, women and children, including diagnosis, treatment, and study of mental and physical health issues; medical and other research involving dogs and other animals; retail store services in the fields of personal care, grooming, cosmetics and health and wellness; and provision of information of interest to or related to the University, its programs, research, students, professors, or alumni; medical and nutritional research and programs; retail store services; on-line and fixed premises retail store and sales services featuring a wide range of products including but not limited to those listed hereinabove</p>
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U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	BLUE DEVIL		
Goods/Services	Mascot services; and substantially the same goods and services as BLUE DEVILS.		

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		

Design Mark			
Goods/Services	Substantially the same goods and services as BLUE DEVILS		

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	DEVIL		
Goods/Services	Substantially the same goods and services as BLUE DEVILS		

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		

Design Mark	
Goods/Services	Clothing, fashion accessories, auto accessories, game day accessories, beer and beverage can holders, barware, beer mugs, tailgating and party accessories, pre-recorded music, downloadable music flags, and stickers

Attachments	<p> 74209061#TMSN.gif( bytes )  74209060#TMSN.gif( bytes )  74209062#TMSN.gif( bytes )  74208937#TMSN.jpeg( bytes )  75892148#TMSN.gif( bytes )  76465255#TMSN.gif( bytes )  78944344#TMSN.jpeg( bytes )  77409399#TMSN.jpeg( bytes )  78944306#TMSN.jpeg( bytes )  Devils Head logo.jpg  D with Devil head.jpg  20140505 NOO.pdf(52529 bytes )  Registration 1411286 (Exhibit 1).pdf(15059 bytes )  Registration 1411429 (Exhibit 2).pdf(15336 bytes )  Registration 1703267 (Exhibit 3).pdf(46895 bytes )  Registration 1703433 (Exhibit 4).pdf(40602 bytes )  Registration 1737968 (Exhibit 5).pdf(34362 bytes )  Registration 1742734 (Exhibit 6).pdf(42310 bytes )  Registration 2088779 (Exhibit 7).pdf(10983 bytes )  Registration 2537692 (Exhibit 8).pdf(13642 bytes )  Registration 2820854 (Exhibit 9).pdf(55478 bytes )  Registration 3878213 (Exhibit 10).pdf(47076 bytes )  Registration 3925905 (Exhibit 11).pdf(97840 bytes )  Registration 4172132 (Exhibit 12).pdf(45677 bytes ) </p>
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## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/sfo/
Name	Susan Freya Olive
Date	05/05/2014